

## REMARKS

In the March 22, 2006 Office Action, the Examiner noted that claims 1-3, 14-16, 18-23, 34 and 35 were pending and rejected all of the pending claims under 35 USC § 112, second paragraph as indefinite and under 35 U.S.C. § 103 as being obvious. In rejecting the claims HweeHwa et al. (Load Sharing in Distributed Multimedia-on-Demand Systems), IEEE, v 12, No. 3, May/June 2000, (herein "HweeHwa"); US Patent Application Publication No. 2003/0028608 to Patterson (herein "Patterson"); and US Patent No. 6,832,239 to Kraft (herein "Kraft") were cited. Claims 14-16, 19, 21, 34 and 35 are herein cancelled without prejudice or disclaimer. Thus, claims 1-3, 18, 20 and 23 remain in the case. The rejections are respectfully traversed.

## Examiner Interview

The Applicants thank the Examiner for granting an interview via telephone conducted on June 29 2006. The Applicants acknowledge with appreciation helpful suggestions provided by the Examiner on how the numerous claim rejections under 35 USC § 112 may be eliminated by clarifying the claims. Further, the Examiner indicated that based on his review, the rejections of claims 3, 16 and 21 under 35 USC § 112 for lack of antecedent basis would be withdrawn in the next Office Action.

## Rejections under 35 U.S.C. § 112

In the Office Action, claims 1-3, 14-16, 18-23, 34 and 35 were rejected under 35 USC § 112, second paragraph as indefinite.

In regard to item 4(A.a) of the Office Action, claims 1 and 18 have been amended to clarify that a result of a service request is sent via electronic mail to the user who requested service **only** if the service request is queued (e.g., claim 1, lines 10-12 and 18-19), as described in the application on page 34, lines 23-27 and page 37, lines 3-12.

In regard to item 4(A.b), claims 1 and 18 have been amended to clarify that a service request received from a user is added to a queue of pending service requests if "the load ... of every server device is higher than the predetermined threshold" (claims 1 and 18, lines 14-15), as described in the application on page 6, lines 18-26 and page 13, lines 21-26. For all of the above reasons, claims 1 and 18 are not indefinite.

In regard to item 4(A.c), claim 2 along with claim 1 have been amended to clarify that a "process delay notification" (claim 1, line 3) is sent to the client device by "electronic mail" (claim 1, lines 5-6), in this case the "process delay notification" is sent by the input/output section 101

shown in FIG. 3 and described in the application on page 18, lines 9-10. Thus, claim 2 is not indefinite. Further, the rejection of claim 15 under 35 U.S.C. § 112 is moot because claim 15 is cancelled.

In regard to item 4(A.d), claim 3 is amended to clarify that "processing of one of the pending service requests is performed by one of the server devices ... [with a load] not higher than a predetermined threshold" (claim 3, lines 2-4) and coinciding with the description in the application on page 6, lines 18-26 and page 13, lines 21-26. Thus, claim 3 is not indefinite.

In regard to items 4(A.e) – 4(A.g), the rejections of claim 14, 16 and 34 under 35 U.S.C. § 112 are moot because claims 14, 16 and 34 are cancelled.

In regard to item 4(B.a), claim 3 has been amended to eliminate the antecedent basis rejection. Thus, claim 3 is not indefinite. In addition, the rejection of claim 16 under 35 U.S.C. § 112 is moot because claim 16 has been cancelled.

In regard to item 4(B.b), the Applicants acknowledge with appreciation the indication by the Examiner that the rejection of claim 3 under 35 U.S.C. § 112, second paragraph would be withdrawn in the next Office Action.

### **Rejections under 35 U.S.C. § 103**

In items 8-14, on pages 5-8 of the Office Action, claims 1, 3, 14, 16, 18, 19, 22, 23 and 34 were rejected under 35 U.S.C. § 103(a) as unpatentable over HweeHwa in view of Patterson.

Claim 1 recites

processing the service request received from the user at one of the server devices to obtain an immediately processed result [and] returning the immediately processed result to the user without using electronic mail if the load information indicates that the load of said one of the server devices is not higher than a predetermined threshold

(claim 1, lines 8-12). An example is described on page 18, lines 9-10 in the application with respect to the input/output section 101 in FIG. 3. Nothing was cited or found in HweeHwa and Patterson either combined together or taken individually that teaches or suggests the processing limitations involving an indication that load information is "not higher than a predetermined threshold" as recited in claim 1.

Claim 1 recites "adding the service request to a queue of pending service requests if the load information indicates that the load of every server device is higher than the predetermined threshold" (claim 1, lines 13-15). An example is described in the application on page 6, lines 18-26 and page 13, lines 21-26.

What was cited in HweeHwa describes a

promising way to contain system cost is to link up several MOD servers to a network as in FIG. 1. This creates a distributed system of loosely coupled servers where (some) objects are replicated, and hence can be retrieved from alternative servers depending on their respective load levels. An MOD server with idle retrieval capacity can then help to service remote requests from another server that is temporarily overloaded

(page 410, right column, second paragraph). In other words, what was cited in HweeHwa describes a distributed system of networked servers where some of the servers have similar content and that content can be retrieved from alternate servers depending on their respective load levels.

Nothing was cited or found in HweeHwa and Patterson either combined together or taken individually that teaches or suggests "adding the received service request to a queue of pending service requests if the obtained load information indicates that the load of every server device is higher than the predetermined threshold" as recited in claim 1.

Claim 1 recites "processing one of the pending service requests in the queue to obtain a postponed result; and returning the postponed result to a requesting user of said one of the pending service requests by electronic mail" (claim 1, lines 16-19), which is consistent with the description in the application on page 6, lines 18-26; page 13, lines 21-26; page 34, lines 23-27 and page 37, lines 3-12.

It was alleged in the Office Action, that HweeHwa

obviously, send[s] a response to the service request to the user from alternative servers depending on their respective load information level (Introduction, page 410, right column, 2<sup>nd</sup> paragraph), which may be interpreted as the load information of the server device is higher than a predetermined value

(Office Action, page 6, lines 1-4). It is submitted that this conclusion of obviousness was reached based on an impermissible hindsight interpretation by the Examiner. There is no reason given for the conclusion of obviousness other than the unsupported assertion at the top of page 4 in the Office Action.

It was admitted in the Office Action, that HweeHwa does not specifically identify electronic mail as the sending vehicle" (Office Action, page 6, lines 4-5). Next, it was alleged in the Office Action that the Abstract of Patterson shows the claimed limitations missing from HweeHwa. However, what was cited in Patterson describes delivering

electronic content includes providing instructions that cause a computer to collect information including an e-mail address and transmitting the collected information to a receiving computer. The computer that receives the transmitted information selects electronic content based on the received information and e-mails the

selected electronic content to the e-mail address included in the received information

(Abstract). In other words, what was cited in Patterson describes sending instructions sent over a computer network that cause a computer to collect information including an e-mail address. The computer that receives the instructions then selects electronic content and sends the content via e-mail to the e-mail address. In other words, what is described is a server automatically collecting an e-mail address and URL information and sending electronic content such as a web site URL via e-mail to a client computer. This is different from what is recited in claim 1 because what was cited in Patterson has nothing to do with "returning the postponed result to a requesting user of said one of the pending service requests by electronic mail" (claim 1, lines 18-19) which is consistent with the description in the application on page 6, lines 18-26; page 13, lines 21-26; page 34, lines 23-27; and page 37, lines 3-12. Nothing was cited or found in HweeHwa and Patterson either combined together or taken individually that teaches or suggests the above cited limitations of claim 1. Furthermore, nothing was cited or found in HweeHwa and Patterson that provides motivation to combine Patterson with HweeHwa or to modify HweeHwa to derive Applicant's limitations missing from HweeHwa. For all of the above reasons claim 1 is allowable.

Claim 18 is directed to a service execution apparatus having means for processing requests and returning results in two ways, only one way using electronic mail, using limitations similar to those in claim 1. Claims 2 and 3 depend from claim 1. Claims 20, 22 and 23 depend from claim 18. Thus, claims 2, 3, 18, 20, 22 and 23 distinguish over the applied art for the reasons discussed in regard to claim 1.

In items 15-20 on pages 8-9 of the Office Action, claims 2, 15, 20, 21 and 35 were rejected under 35 USC § 103(a) as unpatentable over HweeHwa in view of Patterson and further in view of Kraft.

Nothing was cited or has been found in Kraft to suggest modification of HweeHwa and Patterson to overcome the deficiencies of HweeHwa and Patterson discussed above. Thus, claim 2 is allowable because it depends from claim 1.

In addition, claim 2 recites "sending a process delay notification to the user when the service request received from the user is added to the queue as a new pending service request" (claim 2, lines 3-6) which is consistent with the description in the application on page 6, lines 18-26; page 13, lines 21-26; page 18, lines 9-10; and FIG. 3.

It was admitted in the Office Action, that HweeHwa and Patterson "do not send a process delay notification to the user" (Office Action, page 8, lines 14-15). Next, it was alleged in the Office Action, that Kraft "discloses sending a process delay notification to the user ... (FIG. 3C, column 6 lines 39-55, column 7 lines 17-24)" (Office Action, page 8, line 16). What was cited in Kraft describes:

the request response manager 204C informs the client user through the client applet 206 of the number of other requesting clients already awaiting service, and the estimated times until the download can be started and until it can be completed. The client applet 206 upon receiving the information may generate a display of the information in the main window or a separate window of the client application 208 e.g., web browser

(column 7, lines 17-24). "The schedule manager 2048 is queried in order to determine if the client associated with the requesting applet is next in a queue of clients awaiting service" (column 7, lines 55-58). In other words, what was cited in Kraft describes notifying a client user through the web browser of the client if there is a wait in scheduling a request for processing and if the client is already scheduled in a queue as the next client in line (i.e., an old service request). This is different than what is recited in claim 2, because claim 2 recites that "the service request received from the user is **added** to the queue as a new pending service request" (claim 2, last 2 lines, emphasis added). Nothing was cited or found in HweeHwa, Patterson and Kraft either combined together or taken individually, that teaches or suggests this limitation recited in claim 2. Furthermore, nothing was cited or found in HweeHwa, Patterson and Kraft that provides motivation to combine Patterson and Kraft with HweeHwa or to modify HweeHwa to derive Applicant's limitations admittedly missing from HweeHwa and Patterson. Thus, for these additional reasons, claim 2 distinguishes over the applied art.

As noted above, Kraft does not overcome the deficiencies of HweeHwa and Patterson; thus, claim 20 is allowable because it depends from claim 18.

In addition, claim 20 recites process delay notification limitations in a manner similar to claim 2. Thus, for this additional reason, claim 20 distinguishes over the applied art.

The rejections under 35 USC § 103(a) of claims 15, 21 and 35 are moot because said claims are cancelled. For the above reasons, claims 2 and 20 are allowable.

## CONCLUSION

It is submitted that HweeHwa, Patterson and Kraft either combined together or taken individually do not teach or suggest the features of the claimed invention. Thus, it is submitted

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that claims 1-3, 18, 20, 22 and 23 are in condition suitable for allowance. An early action to that effect is courteously solicited.

If there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Finally, if there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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